

**CRIMINAL PROCEEDINGS/Sentencing**

**UNITED STATES DISTRICT COURT FOR THE DISTRICT OF IDAHO**

Judge Edward J. Lodge  
Case No. Cr. 02-003-S

Date: June 24, 2002  
Deputy Clerk: Carol Vaughn  
Reporter: Lisa Yant

**UNITED STATES OF AMERICA vs. Cruz Rubalcava-Rodriguez**

Counsel for United States: Monte Stiles  
Defendant: S. Richard Rubin  
Interpreter: Eduardo Silva  
Probation Officer: Brent Flock

Court stated it did not intend to grant the 2-point downward departure as set out in the plea agreement. Recessed to give counsel an opportunity to discuss whether or not defendant would like to withdraw his plea in light of the Judge's decision.

When court resumed Mr. Rubin notified the court his client wanted to proceed with the sentencing hearing today.

On April 8, 2002, the Defendant entered a plea of guilty to the Indictment charging Removed Alien Found in the United States. The plea was pursuant to a written plea agreement.

The Defendant did not file any written objections to the presentence report.

The Government filed an objection to the presentence report indicating an upward departure was warranted in light of Defendant's criminal history - Denied.

The court considered the comments expressed in open court and, except as modified in court today, adopted the presentence report and the addendum thereto.

Defendant's 5K2.0 Motion for Downward Departure - Denied

Defendant committed to the custody of the Bureau of Prisons for a period of **24 months.**

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Upon release from custody, defendant to be placed on supervised release for a term of 3 years.

Standard conditions of Supervised Release plus: Defendant to comply with all rules and regulations of the Probation Department. Defendant shall not commit another federal, state, or local crime, defendant shall not possess a firearm or other dangerous weapons.

The defendant, if deported, shall not return to the United States without permission of the United States Attorney General.

The Court waived the mandatory drug testing required by 18 USC 33583 pursuant to 18 USC 3563 as the defendant's presentence report indicated a low risk of future substance abuse by the defendant.

The defendant to submit to a search of his home, vehicle, and/or person upon demand of the probation officer, without necessity of a warrant.

The defendant shall provide the probation officer with access to any and all requested financial information.

\$1,000.00 fine imposed. No interest, inability to pay.

Special assessment fee of \$100.00 imposed, due immediately.

Right to Appeal explained.

Defendant remanded back to the custody of the U.S. Marshal.

Time: 3:00 - 3:30pm  
Boise